

## Message Text

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ACTION TRSE-00

INFO OCT-01 NEA-10 ISO-00 EB-07 L-03 CAB-02 CIAE-00

COME-00 DODE-00 DOTE-00 INR-07 NSAE-00 FAA-00 SS-15

NSC-05 /050 W

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P 270745Z JAN 76

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC PRIORITY 3607

LIMITED OFFICIAL USE NEW DELHI 1242

PASS TREASURY FOR ROBERT PATRICK

EO 11652: NA

TAGS: EFIN, IN

SUBJ: TAX EXEMPTION FOR AIRLINES

REF: NEW DELHI 17429

1. THE FINANCE MINISTRY HAS SENT US A REVISED DRAFT NOTE WHICH VERY CLOSELY FOLLOWS THE DRAFT NOTE WE PRESENTED ON DECEMBER 9. THE BASIC PRINCIPLE OF MUTUAL EXEMPTION OF AIRCRAFT PROFITS EMBODIED IN US DRAFT IS ACCEPTABLE BUT INDIANS WANT EXEMPTION CONFINED TO CORPORATIONS. ALSO, TEXT OF NOTE REFERS TO JANUARY 1975 REPEAT 1975. IS IT TOO LATE TO MAKE THE AGREEMENT RETROACTIVE TO 1975?

2. INDIANS GIVE REASONS FOR CONFINING THE MUTUAL EXEMPTION TO CORPORATIONS IN THE TWO COUNTRIES AS FOLLOWS: (A) LIABILITY TO TAX UNDER THE INDIAN INCOME TAX ACT DEPENDS ON THE RESIDENTIAL STATUS OF THE TAXPAYER, IRRESPECTIVE OF HIS NATIONALITY OR CITIZENSHIP; AND (B) THE BUSINESS OF OPERATION OF AIRCRAFT IN INTERNATIONAL TRAFFIC IS PRESENTLY CARRIED ON BY CORPORATIONS, VIZ., AIR INDIA IN THE CASE OF INDIA

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AND PAN AM AND TWA IN THE CASE OF USA, AND INDIVIDUALS

ARE NOT LIKELY TO BE ENGAGED IN THIS BUSINESS IN THE FORESEEABLE FUTURE.

3. THE INDIAN REDRAFT OF US NOTE IS AS FOLLOWS:

" I HAVE THE HONOUR TO REFER TO THE CONVERSATIONS WHICH WERE RECENTLY CONDUCTED BETWEEN REPRESENTATIVES OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE REPRESENTATIVES OF THE GOVERNMENT OF INDIA RELATING TO THE POSSIBILITY OF CONCLUDING AN AGREEMENT BETWEEN THE TWO GOVERNMENTS WITH A VIEW TO GRANTING THE INTERNATIONAL AIRLINES OF THE TWO COUNTRIES EXEMPTION FROM TAX ON THEIR EARNINGS ON THE BASIS OF RECIPROCITY, AND TO INFORM YOU THAT THE GOVERNMENT OF THE UNITED STATES OF AMERICA AGREES AS FOLLOWS:

(1) THE GOVERNMENT OF THE UNITED STATES OF AMERICA SHALL, ON THE BASIS OF RECIPROCAL EXEMPTION GRANTED BY THE GOVERNMENT OF INDIA TO CORPORATIONS ORGANIZED IN THE UNITED STATES OF AMERICA, EXCLUDE FROM GROSS INCOME AND EXEMPT FROM INCOME-TAX ALL EARNINGS DERIVED BY ANY CORPORATION ORGANIZED IN INDIA FROM THE OPERATION OF AIRCRAFT IN INTERNATIONAL TRAFFIC, INCLUDING INCOME FROM THE INCIDENTAL LEASE OF AIRCRAFT. FOR THIS PURPOSE, THE TERM "OPERATION OF AIRCRAFT" SHALL MEAN BUSINESS OF TRANSPORTATION BY AIR OF PERSONS, LIVE-STOCK, GOODS OR MAIL, CARRIED ON BY THE OWNERS OR LESSORS OR CHARTERERS OF AIRCRAFT, INCLUDING THE SALE OF TICKETS FOR SUCH TRANSPORTATION ON BEHALF OF OTHER ENTERPRISES AND ANY OTHER ACTIVITY DIRECTLY CONNECTED WITH SUCH TRANSPORTATION.

THE EXEMPTION HEREIN PROVIDED SHALL ALSO APPLY IN RESPECT OF PARTICIPATION IN POOLS OF ANY KIND REGARDING AIR TRANSPORT BY THE CORPORATIONS ORGANIZED IN INDIA.

(2) THIS AGREEMENT SHALL BE APPLICABLE WITH RESPECT TO TAXABLE YEARS BEGINNING ON OR AFTER THE FIRST DAY OF JANUARY, 1975.

(3) EITHER OF THE TWO GOVERNMENTS MAY TERMINATE LIMITED OFFICIAL USE

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THIS AGREEMENT BY GIVING TO THE OTHER GOVERNMENT SIX MONTHS' PRIOR NOTICE OF TERMINATION IN WRITING AND, IN SUCH EVENT, THE AGREEMENT SHALL CEASE TO BE EFFECTIVE FOR THE TAXABLE YEARS BEGINNING ON OR AFTER THE FIRST DAY OF JANUARY NEXT FOLLOWING THE EXPIRATION OF THE SIX-MONTH PERIOD.

(4) THE GOVERNMENT OF THE UNITED STATES OF AMERICA

WILL CONSIDER THIS NOTE, TOGETHER WITH YOUR REPLY CONFIRMING THAT THE GOVERNMENT OF INDIA AGREES TO TERMS CORRESPONDING TO THOSE OUTLINED ABOVE, AS CONSTITUTING THE AGREEMENT BETWEEN THE TWO GOVERNMENTS, ENTERING INTO FORCE ON THE DATE OF YOUR REPLY.

I AVAIL MYSELF OF THIS OPPORTUNITY TO RENEW TO YOUR EXCELLENCY THE ASSURANCES OF MY HIGHEST CONSIDERATION."  
END OF INDIAN TEXT.

4. INTENDED INDIAN RESPONSE TO THE PRESENTATION OF OUR NOTE IS AS FOLLOWS:

"I HAVE THE HONOUR TO ACKNOWLEDGE THE RECEIPT OF YOUR EXCELLENCY'S NOTE OF TODAY'S DATE WHICH READS AS FOLLOWS:

"TEXT OF THE US NOTE"

I HAVE THE HONOUR TO CONFIRM THAT THE GOVERNMENT OF INDIA AGREES, ON THE BASIS OF RECIPROCITY, TO GRANT EXEMPTION FROM INCOME-TAX AND SURTAX TO CORPORATIONS ORGANIZED IN THE UNITED STATES OF AMERICA ON THEIR INCOME DERIVED BY SUCH CORPORATIONS FROM THE OPERATION OF AIRCRAFT IN INTERNATIONAL TRAFFIC AND REGISTERED UNDER THE LAWS OF THE UNITED STATES OF AMERICA, INCLUDING INCOME FROM THE INCIDENTAL LEASE OF AIRCRAFT. THE TERM "TAXABLE YEAR" IN RELATION TO INDIA SHALL MEAN "PREVIOUS YEAR" AS DEFINED IN THE INCOME-TAX ACT, 1961 (43 OF 1961).

I HAVE FURTHER THE HONOUR TO CONFIRM ON BEHALF OF THE GOVERNMENT OF INDIA THE UNDERSTANDINGS OUTLINED LIMITED OFFICIAL USE

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IN YOUR EXCELLENCY'S NOTE AND TO AGREE THAT YOUR EXCELLENCY'S NOTE AND MY REPLY THERETO SHALL CONSTITUTE AN AGREEMENT BETWEEN THE TWO GOVERNMENTS.

I AVAIL MYSELF OF THIS OPPORTUNITY TO RENEW TO YOUR EXCELLENCY THE ASSURANCES OF MY HIGHEST CONSIDERATION."  
END OF INDIAN TEXT.

5. IF INDIAN DRAFT IS ACCEPTABLE TO US THE FINANCE MINISTRY WILL THEN REQUEST CABINET APPROVAL FOR THE EXCHANGE OF LETTERS WHICH IS NECESSARY FOR ANY INTERNATIONAL AGREEMENT. US NOTE WOULD BE SIGNED BY THE UNITED STATES AMBASSADOR TO INDIA IN NEW DELHI.

6. ACTION REQUESTED: (1) IS INDIAN DRAFT NOTE  
WHICH PERTAINS ONLY TO CORPORATIONS ACCEPTABLE?  
(2) SHOULD AGREEMENT BE EFFECTIVE FROM JANUARY 1, 1975  
OR JANUARY 1, 1976?  
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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** TAX RELIEF, AIRLINES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 27 JAN 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** GolinoFR  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
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**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Reference:** 76 NEW DELHI 17429  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** GolinoFR  
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**Review Date:** 29 JUL 2004  
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Margaret P. Grafeld  
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US Department of State  
EO Systematic Review  
04 MAY 2006

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**Review Withdrawn Fields:** n/a  
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**Status:** NATIVE  
**Subject:** TAX EXEMPTION FOR AIRLINES  
**TAGS:** EFIN, IN, US, AIR INDIA  
**To:** STATE  
**Type:** TE  
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